



MEMORANDUM

Agenda Item No. 11(A)(1)

TO: Honorable Chairperson Barbara
Carey-Shuler, Ed.D and Members,
Board of County Commissioners

DATE: October 21, 2003

FROM: George M. Burgess
County Manager

SUBJECT: Resolution Establishing an
Administrative Order for Lobbying
Rules and Regulations

A handwritten signature in black ink, appearing to read "G. Burgess", is written over the printed name of George M. Burgess.

RECOMMENDATION

It is recommended that the Board adopt the attached Administrative Order implementing the provisions of Section 2-11.1(s) of the Code of Miami-Dade County governing lobbying.

BACKGROUND

On May 6, 2003, the Board approved Ordinance 03-107, amending Section 2-11.1(s) of the Conflict of Interest and Code of Ethics ordinance relating to lobbying. The Ethics Commission, with the assistance of Commissioner Sorenson and her staff and the Clerk of the Board of County Commissioners, prepared the attached Administrative Order, which outlines the legal requirements of the ordinance and establishes procedures for implementation. Pursuant to the ordinance, the Ethics Commission has primary responsibility for enforcement of lobbying rules and regulations.

The Administrative Order provides definitions for the recent exceptions to the definition of lobbyist including definitions for expert witness, community based organization, neighborhood association and quasi-judicial proceeding.

The Administrative Order also provides for revised registration requirements for members of an oral presentation team before a County certification, evaluation, selection, technical review or similar committee. The procedure requires all team representatives to submit a final affidavit to the Clerk of the Board at least two days prior to the oral presentation.

The Administrative Order further provides that all departments and agencies must maintain a visitor's log of all department visitors who are seeking to do business with the department or agency or seeking administrative action from the department or agency. The Administrative Order also provides a procedure for staff to verify the status of any lobbyist who seeks to meet with them regarding a matter.

The Administrative Order clarifies the application of the ban on contingency fees and its application to County contracts entered into prior to and subsequent to the enactment of the May 6, 2003 ordinance.

The Administrative Order sets out the required registration fees and reports required from each registered lobbyist. All registered lobbyists must file an expenditure report on July 1st of every year. A lobbyist will be assessed a fifty dollar a day fee for any report filed after July 1st and will be automatically suspended on September 1st if the form has not been received by the Clerk of the Board. A late fine may be appealed to the Ethics Commission.

Finally, the Administrative Order summarizes the penalties for violation of the ordinance. Pursuant to the ordinance, a lobbyist may incur a fine of two hundred and fifty dollars for the first violation and five hundred dollars for every subsequent violation and a public reprimand. The Ethics Commission may also suspend a lobbyist for any violation of the lobbying ordinance. Any contract entered into in violation of the ordinance shall be rendered void.



Assistant County Manager

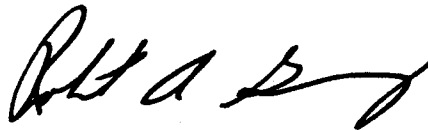


MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: October 21, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 11(A)(1)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(1)
10-21-03

RESOLUTION NO. _____

RESOLUTION ESTABLISHING AN ADMINISTRATIVE
ORDER RELATING TO LOBBYING RULES AND
REGULATIONS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the establishment of an Administrative Order regarding lobbying rules and regulations, in substantially the form attached hereto and made a part hereof; and authorizes the County Manager to implement same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	
Katy Sorenson, Vice-Chairperson	
Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of October, 2003. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Gks

Gerald K. Sanchez

A.O. No.: 2-8
Ordered:
Effective:

MIAMI-DADE COUNTY
ADMINISTRATIVE ORDER

LOBBYING RULES AND REGULATIONS

AUTHORITY: Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter and Section 2-11.1(s) of the Code of Miami-Dade County

POLICY: In order to promote transparency and integrity in the legislative process, Miami-Dade County requires the identification of all persons and groups who seek to influence the content, introduction, passage or defeat of actions of the Board of County Commissioners, the County Manager, County boards and agencies and/or County personnel.

PURPOSE: The following Administrative Order delineates the responsibilities of lobbyists and County personnel in implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics ordinance.

DEFINITIONS

Lobbyist: All persons, firms or corporations employed or retained by a principal that seeks to encourage the passage, defeat or modification of 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision, or recommendation of the County Manager or any County board or committee; or 3) any action, decision, or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities.

Neighborhood Association: An organization of residential homeowners and tenants created to address quality of life issues in a defined neighborhood or community.

Community Based Organization: A not-for-profit association or corporation organized under state or local law to engage in community based activities (including, but not limited to, housing and economic development activities) and has as its primary purpose the improvement of the physical, economic or social environment by addressing one or more of the critical needs of the area, with particular attention to the needs of people with low or moderate incomes.

Expert Witness: A person duly and regularly engaged in the practice of a profession who holds a professional degree from a university or college and special training or experience, or a person who would be recognized as possessing specialized knowledge or skill concerning the subject about which he or she will testify.

Quasi-Judicial Proceeding: A hearing before a County or municipal commission or board where the rights of particular persons or entities are determined and for which prior notice, the opportunity to be heard and the introduction and evaluation of evidence are required (e.g., Value Adjustment Board, Community Zoning Appeals Board, Equal Opportunity Board).

Contingency Fee: A fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

EXCEPTIONS:

The provisions of this Administrative Order do not apply to the following: attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a not-for-profit community based organization for the purpose of requesting a grant, without special compensation or reimbursement for the appearance; and employees of a principal whose normal scope of employment does not include lobbying activities.

REGISTRATION REQUIREMENTS:

Every lobbyist must file a registration form with the Clerk of the Board for each client within five (5) days of being retained by a principal or before conducting any lobbying activities, whichever comes first. Additionally, every lobbyist must file an annual registration form with the Clerk at the time of initial registration and on or before January 15th of each year thereafter, along with an annual registration fee of four hundred and ninety dollars (\$490.00). The initial annual registration and fee shall only be valid for the calendar year in which it is submitted. (However, lobbyists who filed a biennial registration in 2002 do not have to file an annual registration until January 15, 2005.) The principal must also submit a principal authorization form prior to any lobbying. The principal must identify whether the lobbyist is retained for a particular matter or may lobby on any matter regarding the principal.

EXCEPTIONS:

The registration requirements described above may be waived in certain circumstances as follows:

Selection Committee Presentations- Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee shall list on an affidavit provided by the County, all individuals who may make a presentation. The affidavit shall be filed with the Clerk of Board at the time the response is submitted. The individual or firm must submit a revised affidavit for any additional team members with the Clerk of the Board at least 2 days prior to the oral presentation. Any person not listed on the revised affidavit will not be permitted to participate in the oral presentation. All additional team members, who are lobbyists, as defined herein, must file a registration form with the Clerk of the Board of County Commissioners prior to the oral presentation.

Not-for-Profit Organizations: A lobbyist for a not-for-profit organization (unless lobbying for a CBO seeking grant funds) must register and file the required expenditure forms; however, the applicable registration fees will be waived upon request.

CONTINGENCY FEES:

After May 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee. This section does not apply to lobbying pursuant to a contingency fee contract entered into prior to May 16, 2003 if the matter was advertised prior to May 16, 2003.

VISITOR LOGS:

All departments and agencies must maintain a visitor log for anyone seeking to do business with the department or agency or seeking administrative action from the department or agency. The log should include information regarding the name of the visitor, the staff person or persons visited and the purpose of the visit (i.e. name of matter or agenda item number).

VERIFICATION OF LOBBYIST'S STATUS:

All members of the County Commission and all county personnel shall be diligent to ascertain whether persons appearing before them have registered as lobbyists. County personnel may check on a lobbyist's status through the Lobbyist Registration section of the Metronet or by calling the Clerk of the Board of County Commissioners. County Commissioners and other County personnel may not knowingly permit a person who is not registered to lobby them regarding an issue.

EXPENDITURE REPORTS:

Filing of Reports

All registered lobbyists must file an expenditure form with the Clerk of the Board by July 1st of each year. The date of filing is the date that the form is received by the Clerk's office. A lobbyist must file a report for every principal. The lobbyist must list all expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. The form must be filed even if the lobbyist did not make any expenditure during the prior year.

Penalties for Failing to File the Expenditure Report

An automatic late fee of fifty (\$50) dollars per day is assessed for failing to timely file the expenditure report. In addition to the late fee, the Commission on Ethics and Public Trust ("Ethics Commission") may order a public reprimand and assess a fine of two hundred and fifty dollars for every violation. A lobbyist is automatically suspended from lobbying activities if the lobbyist has failed to file the form by September 1st of each year. The lobbyist is also subject to the three strikes rule for failing to file the lobbyist expenditure report as detailed below under "Ethics Commission Penalties".

Appeals Procedure

Any lobbyist may appeal the late fee by sending a letter to the Ethics Commission. The letter must include the grounds for the appeal and indicate whether the lobbyist is requesting a hearing before the Ethics Commission. All late fees will continue to accrue while the appeal process is pending until the lobbyist has filed the required report. The Ethics Commission may waive the fine, in whole or in part, or order payment of the entire amount.

PENALTIES FOR VIOLATION OF LOBBYING ORDINANCE:

Ethics Commission Penalties

Lobbyists shall be subject to a public reprimand or admonishment and a fine of two hundred and fifty dollars (\$250.00) for the first violation and five hundred dollars for each subsequent violation. Additionally, any lobbyist who is found to be in violation of any of the provisions of Section 2-11.1(s) shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule or "three strikes rule":

A ninety-day suspension for the first violation;

A one-year suspension for the second violation;

A five-year suspension for the third violation

Other Penalties

Any contract entered into in violation of this section is voidable by the County Manager.

A bidder or proposer may be debarred from future county work for three or more direct or indirect violations of the lobbying ordinance. A direct violation is a violation by the bidder or proposer and an indirect violation is a violation committed by the lobbyist.

Any County employee who violates the provisions of this Administrative Order may be subject to disciplinary action.

WITHDRAWAL:

A lobbyist must file a notice of withdrawal at the conclusion of his or her representation for each principal. The lobbyist is required to file an expenditure report by July 1st following his or her withdrawal from representation of a client.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

George M. Burgess
County Manager